

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON AGRICULTURE

Call to Order: By **CHAIRMAN DONALD L. HEDGES**, on March 20, 2001
at 3:00 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Donald L. Hedges, Chairman (R)
Rep. Linda Holden, Vice Chairman (R)
Rep. Ralph Lenhart, Vice Chairman (D)
Rep. Darrel Adams (R)
Rep. Norma Bixby (D)
Rep. Gilda Clancy (R)
Rep. Christopher Harris (D)
Rep. Jim Keane (D)
Rep. Holly Raser (D)
Rep. Dave Gallik (D)
Rep. Larry Lehman (R)
Rep. Clarice Schrupf (R)
Rep. Frank Smith (D)
Rep. Butch Waddill (R)
Rep. Karl Waitschies (R)
Rep. Merlin Wolery (R)

Members Excused: Rep. Rick Dale (R)
Rep. Kathleen Galvin-Halcro (D)
Rep. Verdell Jackson (R)

Members Absent: None.

Staff Present: Krista Lee Evans, Legislative Branch
Robyn Lund, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 261, 3/16/2001; HB 628,
3/16/2001
Executive Action: HB 628; SB 261; SB 245

HEARING ON HB 628

Sponsor: Representative Merlin Wolery, HD 9

Proponents: Pam Langley, Montana Agricultural Business
Association, Montana Seed Trade Association
Ken Sagmiller, Westland Seed, Montana Seed Trade

Opponents: None

Informational Witnesses: Ralph Peck, Department of Agriculture

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 1.7}

Representative Merlin Wolery, HD 9, brought HB 628 at the request of the Montana Agri Business Association and the Montana State Dealers. This bill has been in the works for some time. It deals with seed contracts and performance disputes. The bill sets up a five-member mediation council. The council's duty will be to mediate disputes between the buyer and the seller. These would be people who can't come to an agreement, but wish to settle it out of court.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 3.2}

Pam Langley, Montana Agricultural Business Association, Montana Seed Trade Association, submitted written testimony and supplemental information. **EXHIBIT**(agh63a01) **EXHIBIT**(agh63a02)

Ken Sagmiller, Westland Seed, Montana Seed Trade, said that Washington, Idaho, North Dakota and South Dakota all have mediation laws. That pertains to all agricultural seeds. This is self supporting and not going to cost the tax payers anything. Any additional costs will be covered in the settlement. When the buyer or grower has a problem with the seed, time is of the essence. It can be handled by the mediation board while the problem is ongoing. Our courts are overloaded and this would save some of that case load. A grower who lost an entire crop won't have to wait two or three years before he is reimbursed for his losses. A lot of seed is crossing the state lines and we need to be in sync with our neighboring states. Companies in Montana that are shipping seed to other states have to comply with the other state's mediation law, but companies in other states shipping into Montana don't have to comply with a mediation law because Montana currently doesn't have one.

Passing this law would make a level playing field. This law speeds up the process for the injured party to get reimbursed for their loss.

Carol Lambert, WIFE, supports this bill. WIFE supports the introduction and passage of legislation which creates a bargaining obligation between processors and producers. WIFE calls for the development and implementation of legislation prohibiting unjust and unreasonable conduct by business that is in a dominating position in contracting, supplying, transporting or buying agriculture goods or services. Agriculture always has a money problem. Many times it is not that they don't have a just case, it is that they can't afford to go to court. They feel that with mediation there would be many more people who would come forward and expose some of these wrongs.

Nancy Schlepp, Montana Farm Bureau, stands in support of this bill.

Bob Stevens, Montana Grain Growers Association, thinks that this bill is badly needed. Most farmers are seeding new seed most years and this seed is expensive. If there is something wrong with that seed they have to go to court. If they can do it through mediation, that seems to be a better option.

Informational Testimony:

Ralph Peck, Department of Agriculture, said that this is an industry bill. A task force made from a broad base of people worked for the last two years to put this legislation together. They did surveys of other states to determine what they were doing and that our program would work. The Seed Advisory Task Force concluded that they did feel that mediation is feasible and would assist all parties in settling disputes. They tried to follow the model language as close as possible so that our laws are in sync with other states. There is a revenue neutral impact because it requires those who use it to pay for it. It is a fee-for-service activity.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 24}

REPRESENTATIVE LARRY LEHMAN said that he understands that what they are looking for is an expeditious solution to a dispute and they feel that mediation is less expensive than going through the court system. Is that correct? **Rep. Wolery** said that is correct. **REP. LEHMAN** continued that legal recourse is available if in fact they are not satisfied with the result of the

mediation process. **Rep. Wolery** said that is correct. Legal recourse would require the mediation to be in place beforehand, but mediation will be low cost when compared to legal recourse. **REP. LEHMAN** didn't see any reference in the bill to any quantity of seed to be involved in the mediation process. **Rep. Wolery** said, on the second page it refers to MCA 25-35-502, which is small claims court which is \$3,000. It would generally be claims from \$3,000 and up. **REP. LEHMAN** said that there is no minimum amount, it's just an amount that would be related to small claims court. **Rep. Wolery** said it would be above small claims court.

REPRESENTATIVE CHRISTOPHER HARRIS said that, as he reads this the mediation people need to come up with a report in 60 from receiving the referral, but it also says that they have the ability to actually grow the seed in question. How long does it take to grow that seed and, in every case, can the meet that 60 day requirement? **Rep. Wolery** said that may refer more to looking at the sprouting ability of the seed and see if it is good there. Certainly you aren't going to grow it to maturity in 60 days. This doesn't really deal with a mature crop, it deals with the seed and sprouting. **REP. HARRIS** clarified that mediation will not deal with seed that has grown to maturity, is that true in all cases? **Rep. Wolery** said that this will deal with the seed and its emergence. **REP. HARRIS** said that we have a constitutional provision that says that courts of justice shall be open to every person and speedy remedy afforded for every injury of person, property or character. This bill imposes a mediation requirement before you can get to court. His concern is that this will still meet the speedy remedy requirement of the constitution. **Rep. Wolery** replied that they don't think that it is a problem. The investigation here is supposed to be quite timely. **REP. HARRIS** said that this bill says that a claim can't be asserted as a counterclaim or offense unless the counterclaim has already been initiated. How will this work in reality? **Rep. Wolery** deferred that to Ralph Peck. **Director Peck** said that their goal was to speed up the process to meet the constitutional requirements. The objective was to have the two parties come together and try to mediate the differences before they got to the point that each one was filing a legal process in court. **Mr. Meloy** replied that he thought that **REP. HARRIS** was correct. It does require that if a seller has filed a lawsuit against a buyer and the buyer has not filed a mediation claim, then it appears that the buyer is precluded from filing an answer until they have filed a claim in mediation. **REP. HARRIS** commented that this could be bad news for the buyer. **Mr. Meloy** said that we would have to visit some more with the people who brought this forward. This could have come from the model legislation. It could be there to encourage the buyer to engage in mediation in order to get the problem solved.

REPRESENTATIVE DARELL ADAMS asked about the word "shall" on page 1, line 8. By doing that are we taking away the right to go to any other means for settling the dispute? **Mr. Meloy** said that this is set up so that if a producer has a claim that exceeds the \$3,000 and if when the seller sold the seed, put a provision on the seed label that advised the buyer of his right to go to arbitration, then this bill does make it mandatory that the buyer, before he can sue the seller, has to go through the mediation process. Once the process is completed, it is non-binding and they still have the right to go to court.

REP. ADAMS asked why seed potatoes were excluded in the bill.

Rep. Wolery said that seed potatoes deteriorate very fast.

Mr. Sagmiller commented that with seed potatoes there is no way of getting a germination. They are not storable because they deteriorate. He feels that if that group wants a mediation council they should have one of their own because it is totally different from seeds.

REPRESENTATIVE RALPH LENHART asked how often the Department of Agriculture runs into conflicts that require mediation. **Director Peck** commented that it is about two or three times per year that they have an indication that someone has a conflict with the seed that they have bought or a seller has a conflict with the buyer. Many times the buyer may be embarrassed because they may have planted winter wheat when they thought they were planting spring wheat.

REPRESENTATIVE KARL WAITSCHIES asked Pam Langley which of the five members on the council would represent the grower and user of the seed? **Ms. Langley** said that the five people listed are the people who would do the appointing of the members; they are not on the council. The Department of Agriculture could appoint someone for that. **REP. WAITSCHIES** said that it seems that they are stacking the deck. He doesn't see someone who would represent the seed growers. **Ms. Langley** said that these five were chosen because they are in the model act.

REPRESENTATIVE CHRISTOPHER HARRIS asked if Mr. Sagmiller ever sees problems with the mature crop that would be subject to the mediation. **Mr. Sagmiller** said that they do. The grow-out period that they specifically mention pertains only to the germination. The sixty days moves up. If there is a problem with the crop when you get ready to harvest, you have sixty days after that problem appears.

REP. HARRIS asked the same question of Ralph Peck. **Director Peck** replied that if they have a problem later, there should be a lot of research available on the performance of that seed. As you

look at the harvest date, you can cross-compare that to the data. There should be a very good data bank available from other users in the area, individuals who have raised the same variety. It is hard for him to think of an instance where you would want to grow the seed completely through to maturity. The odds of having to do that are very slim. **REP. HARRIS** asked if it was fair to say that when they are dealing with the seed in its mature state, the council is going to rely on literature as opposed to an actual example of growing that seed in a controlled environment.

Director Peck said that both sides would present their side of the case and provide the best information they can. Theoretically, the seed should be in more places than just one individual, so they should have good production data that would prevent a need for that.

REPRESENTATIVE JIM KEANE asked about the fiscal impact; won't it cost more than \$1000 per time? **Director Peck** said that that is one of the challenges in putting together fiscal notes. A lot of the work for the council can be done by phone. A lot of the preparation work will be done before the actual meeting of the mediation council. The difficulty is evaluating the exact cost of each meeting. They tried to look at the costs in other states and the survey information that was provided when coming up with the cost.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 51.3}

Rep. Wolery said that the people listed are those who will recommend the appointment. They will be people with expertise in the area. While the mediation will be required, it may well keep a claim out of court. If it does go to court, the information gathered for the mediation may be admitted into court to help with that process. There are some amendments coming, but they don't change much.

EXECUTIVE ACTION ON HB 628

Motion: **REP. WOLERY** moved that **HB 628 DO PASS.**

Motion: **REP. WOLERY** moved that **AMENDMENTS TO HB 628 BE ADOPTED.**

Discussion:

REP. WAITSCHIES still doesn't like the make-up of the people who pick those things. He would like a grower group to be in there.

Ms. Evans explained the amendments. They are technical amendments.

REP. LEHMAN called for the question.

Motion/Vote: **REP. WOLERY** moved that **AMENDMENTS TO HB 628 BE ADOPTED. Motion carried unanimously.**

Motion: **REP. WOLERY** moved that **HB 628 DO PASS AS AMENDED.**

Discussion:

REP. HARRIS moved a conceptual amendment that has to do with expanding the mediation council by at least two members to represent the growers. **Ms. Evans** said that if we don't say which grower groups those are, how are they going to know who to go to to request a nomination. The other option is to put that two or three of the people nominated have to be growers.

REP. WAITSCHIES is concerned about companies like Monsanto being considered a grower, but would not represent him as a grower. Just saying growers won't solve the problem.

REP. HARRIS like Ms. Evan's idea that the council must include two Montana growers with certain acreage, not greater than 3000 acres.

REP. WOLERY said that they could say that the director of agriculture must appoint two growers and leave it up to him.

REP. HARRIS clarified that the actual mediation council would include two growers and that would accomplish the basic objection.

REP. LEHMAN said that you could end up with sugar beet growers discussing a winter wheat problem. Could you make it so that it was two growers of the product being mediated? **Ms. Evans** said that the council may not change each time a mediation comes up. **REP. LEHMAN** asked if we add one or two council members, would we want to deduct one or two? Otherwise the fiscal note will no longer be applicable.

REP. HOLDEN stated that the bill says that the council will be five members and five alternate members. Why not have ten members listed and then they could choose the people to mediate a situation?

REP. WAITSCHIES stated that his concern is that when you look at the five people choosing right now, they are all the people who

grow the seed to sell to other people. If there is a problem there is no one to represent the person who buys the seed. There is no representation on the council for the person who buys the seed and grows it.

REP. HARRIS said that the simple solution is an amendment on line 11, page 3 that says two of the members of the council must be crop producers.

REP. HEDGES asked Pam Langley to comment. **Ms. Langley** said that the only reason she can think to do this is that these are people who would have expertise in seed development and seed pathology. Many of the seed growers themselves are farmers.

REP. KEANE said that we have three cases a year and five people to settle it. It seems to be overkill.

REP. HEDGES asked Steve Barrel to comment. Did this discussion come up during the development of the legislation? **Mr. Barrel** said that this discussion didn't come up. There were some discussions that there would be a need to make sure that there was some representation on that council. They felt that the make up of the council could be such that the agencies that are represented could appoint their representatives to the council and those representatives could be growers.

REP. WOLERY said that he thought the amendment being discussed would be fine.

REP. ADAMS said that this bill seems to be a wheat bill, what about the other seeds? **REP. HEDGES** said that is why they said production growers.

Motion/Vote: **REP. HARRIS** moved that **AMENDMENT TO HB 628 BE ADOPTED. Motion carried unanimously.**

Motion: **REP. WOLERY** moved that **HB 628 DO PASS AS AMENDED.**

Discussion:

REP. HOLDEN said that they used to raise grass seed and they received some that had other seeds mixed in with the grass seeds. It was too expensive to go to court over it. She thinks this is a good bill.

REP. HARRIS offered a technical amendment. If you are in a situation where you can't assert a counterclaim because of the mediation process, the court has to stay proceedings until mediation is finished.

REP. GALLIK is concerned that if we proceed to mediation on a claim and then there is a counterclaim filed, shouldn't the mediation include both the claim and the counterclaim?

REP. HARRIS responded that that is not the way this bill is structured. The seller doesn't have any rights under this bill.

Ms. Evans said that on page 2, sub B, his concerns seem to be addressed.

REP. GALLIK is concerned about page 4, line 10. It provides that an answer is required to be submitted by the seller within 15 days. Normally you have at least 20 days to file an answer. He is wondering if that is enough time.

REP. WOLERY has no concerns about changing that to 21 days.

REP. GALLIK moved the amendment.

REP. HEDGES asked if there was a reason for the 15 days.

REP. HOLDEN pointed out that they were trying to match other states and we should try to keep it consistent.

REP. GALLIK asked Mr. Barrel to respond. **Mr. Barrel** didn't object to extending the time frame. It is based on the recommended uniform seed law.

REP. SMITH clarified if that was 15 working days or 15 days.

Ms. Evans replied that it would be days, since it doesn't say working days.

REP. HOLDEN asked for **REP. GALLIK** to respond. **REP. GALLIK** thinks that 21 days would make some sense. It appears that 15 days may not be enough. **REP. HOLDEN** said that the point of this is to get mediation going quickly. Since it is in the other states, maybe we should leave it 15 days.

Motion/Vote: **REP. GALLIK** moved that **AMENDMENT TO HB 628 BE ADOPTED**. Motion carried 17-2 with Holden and Lenhart voting no.

Motion/Vote: **REP. WOLERY** moved that **HB 628 DO PASS AS AMENDED**. Motion carried unanimously.

HEARING ON SB 261

Sponsor: Senator Chris Christiaens, SD 23

Proponents: Daniel Bergey, MSU

Carol Lambert, WIFE
Nancy Schlepp, Montana Farm Bureau
Bob Stevens, Montana Grain Growers, Montana Farmer's
Union
Brian Cameron

Opponents: None

Opening Statement by Sponsor:

Senator Chris Christiaens, SD 23, said that the bill before the committee today is one that authorizes the production of industrial hemp as an agricultural crop. The reason for this bill is because he is very aware of the nature of agriculture in Montana and he has looked at alternative crops for a long time. He handed out some information about hemp products and the value of them. **EXHIBIT (agh63a03)** There are two parts of hemp that are actually cash producers: the seed for oil and the fiber. The oil from the seed is selling for about \$60 per gallon. It is healthier than canola. The fiber can be made into many products including paper and clothing. We as a country are importing over \$50 million in hemp fiber per year. This is a crop that will grow well in Montana. The thing that he finds exciting about this is the simple fact that we can not only grow this in Montana, but this could be an added-value product. We can see production of things from the hemp grown in the state. This is also a great weed control plant. It grows thickly and shaves out weeds and you don't have to use pesticides in the growing of this particular crop. It can grow up to 16 feet in 110 day growing season. The higher it grows the more fiber there is for production. You harvest it twice: once for the seed and once for the fiber. It is a member of the marijuana family, but you are not able to get high off of it because the THC factor of this type of hemp is a .03%. Marijuana is generally a 3%. He submitted a letter from the Montana Libertarian Party.

EXHIBIT (agh63a04)

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 37.4}

Daniel Bergey, MSU, believes that this crop should be legalized. He wanted to address the THC issue from a biochemical standpoint. Industrial hemp and marijuana are two varieties of the same species. The difference between the two is the level of THC, which is the psychoactive component in marijuana. He emphasized that you can't get high by smoking industrial hemp; you would just get sick. There are many varieties of industrial hemp that have virtually no level of THC. To be classified as industrial

hemp the THC level has to be below .03%. There have been no studies where people have been able to purify THC from industrial hemp. There is another component in play here, which is CBD. In marijuana the THC level is very high and the CBD level is very low. In industrial hemp it is the other way around. CBD counteracts THC. Industrial hemp can actually be considered the anti-marijuana because the CBDs actually prohibits THC's from binding to nerve receptacles, therefore preventing the psychoactive reaction. Without politics there would be no concern about hemp at all. He also said that hemp is a deep-rooted annual. It is very good for the soil and would be a fantastic rotation crop. It requires very little nitrogen and fertilizer. It is drought resistant.

Carol Lambert, WIFE, read from their policy on private property rights because this is a grower decision. "WIFE believes it's the right of every farm family to improve their financial situation, standard of living, or status in life through their own investments, management decisions, determination and dedication." This has a real possibility to enhance agriculture. This should be a personal decision. There are areas in Montana that this is needed as a drought resistant crop.

Nancy Schlepp, Montana Farm Bureau, stands in support of this bill.

Bob Stevens, Montana Grain Growers, Montana Farmer's Union, stated that this is a good alternative crop.

Brian Cameron said that our competitors in other nations are already producing hemp and selling it to the US at high prices. Many of our neighbors and domestic competitors from the Dakotas to Virginia have already positioned themselves to begin producing industrial hemp. We need to keep pace. SB 261 gives us a chance to take this to the next level and confirms our resolve to give our producers, manufacturers and retailers an economically viable and value-added product.

Questions from Committee Members and Responses:

{Tape : 2; Side : A; Approx. Time Counter : 3.6}

REPRESENTATIVE DARREL ADAMS asked the sponsor where the market for hemp is. **Senator Christiaens** said that the fiber can be utilized in the state without a great deal of effort.

REPRESENTATIVE FRANK SMITH asked how many other states are doing this. **Senator Christiaens** said that North Dakota, Virginia and Hawaii have attempted to do this. When they were drafting this

bill they looked at it possibly being something that would be started as an experiment and then they looked at some of the safe guards that the DEA would require and decided not to go that direction.

REPRESENTATIVE LARRY LEHMAN clarified that you would harvest this crop twice, once for the seed and once for the stalk.

Senator Christiaens said that was correct. **REP. LEHMAN** asked about a maturity time. **Senator Christiaens** said that it was about 110 days for a growing season.

REPRESENTATIVE CHRISTOPHER HARRIS doesn't see how we are going to get the federal government to be lenient on their statute.

Senator Christiaens said that it is possible that they will say no, but this is as close as you can come to requiring the federal government to be responding to state law. **REP. HARRIS** asked if there was any loop hole in federal law at all that allows for certain licensing to occur under certain conditions.

Senator Christiaens did not know of one. **Ms. Evans** shared that Hawaii did receive a waiver from the DEA. Included with that waiver were fairly substantial security measures such as fences, 24-hour surveillance, et cetera.

REPRESENTATIVE KARL WAITSCHIES said that it looks like, on page 3, that if he gets to grow industrial hemp, he can also grow marijuana for his own use. **Senator Christiaens** said that was not the intent. **Ms. Evans** said that the bill says it is an affirmative defense for the possession or cultivation of marijuana, if they were growing industrial hemp pursuant to sections 1 - 7, which means they can't have a level of THC greater than .03%.

REPRESENTATIVE CLARICE SCHRUMPF asked where the garments that were shown earlier were made. **Senator Christiaens** said that they were made in Nepal. **REP. SCHRUMPF** said that this seems to be a shoo-in crop. **Senator Christiaens** responded that she was accurate.

REP. ADAMS asked why the DEA had the security requirements in Hawaii. **Ms. Evans** said that it is because they are worried that people are going to plant marijuana within hemp fields. However, since you are growing them for different purposes, you plant them at different spaces.

REPRESENTATIVE MERLIN WOLERY asked what the support was in the Senate. **Senator Christiaens** said that it came out of the Senate Ag Committee with only one dissenting vote and it passed the Senate 46 to 4.

REPRESENTATIVE DON HEDGES said that during WWII there was a considerable amount of hemp grown in the US to support the war effort for rope requirements for the Navy. When did we quit doing that? **Senator Christiaens** referred to the earlier handout. This nation is importing \$50 million worth of raw hemp each year for manufacturing. He pointed out that the Declaration of Independence was written on hemp paper. **REP. HEDGES** asked how it responds to herbicides for the control of weeds. **Senator Christiaens** said that one of the things about hemp is that it is a good controller of weeds. It chokes out other weeds. He thinks that because it is a broadleaf plant it would be very easy to control with herbicide if needed.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 21.7}

Senator Christiaens said that this is the ideal crop for the semiarid part of the state. This may eventually lead to other small businesses in the state manufacturing these products.

EXECUTIVE ACTION ON SB 261

Motion/Vote: **REP. HARRIS** moved that **SB 261 BE CONCURRED IN.**
Motion carried 16-3 with Holden, Waddill, and Waitschies voting no.

EXECUTIVE ACTION ON SB 245

Motion: **REP. WOLERY** moved that **SB 245 BE CONCURRED IN.**

Motion: **REP. WOLERY** moved that **AMENDMENTS TO SB 245 BE ADOPTED.**

Discussion:

Ms. Evans explained the amendments. **EXHIBIT**(agh63a05)

REP. HOLDEN clarified that this bill is a risk management account. It is tax free for five years, but then you have to pay the taxes.

REP. ADAMS called for the question.

Motion: **REP. WOLERY** moved that **AMENDMENTS TO SB 245 BE ADOPTED.**
Motion carried unanimously.

Motion: REP. LENHART moved that **AMENDMENTS TO SB 245 BE ADOPTED.**

Discussion:

Ms. Evans thought that the two sets of amendments would have to be either or. She explained the next set of amendments.

EXHIBIT (agh63a06) EXHIBIT (agh63a07)

REP. HOLDEN commented that this bill was intended not as a tax credit, but as a risk management account.

REP. GALLIK asked for Senator Jergeson to comment since he had some input into the amendment. **Senator Jergeson** passed out some tables and explained them. **EXHIBIT (agh63a08)** These amendments are trying to provide farmers with modest incomes a way to manage risks. They allow for a tax credit, rather than a risk management account. This would make them able to step up and improve their income yearly. The way that the bill is written without the amendments you almost have to have a bad year to take out the money. He believes that this would help the people who need it the most because their income is not as high, \$30,000 or below. It allows the people in the lowest tax bracket to take advantage of the highest tax bracket.

REP. LEHMAN asked if this set of amendments benefits a broader base of people than the other amendments. **REP. LENHART** said that was correct.

REP. WOLERY said that this really changes the bill from what it was. They are two different ideas. If we are going to honor this bill then he doesn't think that they can support the amendment.

REP. WAITSCHIES said that this amendment would have a difficult time in the tax committee. This isn't a good idea with the ending fund balance being low.

REP. GALLIK asked if that would be the same with the original bill. **REP. WAITSCHIES** said that it is more of a deferment because it will be taxed at a later date.

REP. SMITH clarified that this amendment would be a tax credit. **Ms. Evans** said that is correct, this is a refundable tax credit.

REP. HEDGES rose in opposition to this amendment because it changes the entire process of the hearing. If this had been the bill the people who spoke would have been entirely different.

REP. KEANE called for the question.

Motion/Vote: REP. LENHART moved that **AMENDMENTS TO SB 245 BE ADOPTED**. Motion failed 5-14 with Bixby, Gallik, Galvin-Halcro, Harris, and Raser voting aye.

REP. GALLIK said that the way he understands this is that there will be about 700 people that will be able to take advantage of this. Given the fiscal state of affairs he feels that this is poor stewardship of the state's tax dollars to pass this legislation.

REP. RASER likes the idea of this, but she agrees with REP. GALLIK. We can't afford this right now.

REP. WAITSCHIES doesn't support this bill. This is a \$1.2 million hit, but this full amount will be taxable when it comes out in whatever year.

REP. WOLERY will support the bill.

REP. KEANE said that if you put money away that isn't taxed and you take that money in a bad year, it still isn't going to be taxed because you will taking it out in a bad year. It is a big hit to the general fund.

REP. LENHART is going to support the bill.

REP. SMITH supports the bill. The taxes will be paid eventually.

REP. JACKSON will support this bill because it will keep some of the farmers and ranchers in business. The long-range impact will make a profit if it works.

REP. RASER agreed that if you take the money out in a bad year then you will be in a lower tax bracket and money will be lost to the general fund. This will help the farmers who are doing the best. It needs to address those who need the help.

REP. HEDGES doesn't think that there is a great tax loss ahead of us. This is a paper transaction rather than a commodity transaction.

REP. WOLERY called for the question.

Motion/Vote: REP. WOLERY moved that **SB 245 BE CONCURRED IN AS AMENDED**. Motion carried 14-5 with Bixby, Gallik, Keane, Lehman, and Raser voting no.

ADJOURNMENT

Adjournment: 6:00 P.M.

REP. DONALD L. HEDGES, Chairman

ROBYN LUND, Secretary

DH/RL

EXHIBIT (agh63aad)